In the High Court of Punjab and Haryana at Chandigarh.

Civil Revision No.3689 of 2006.

Date of decision :19.1.2007.

Punjab State Electricity Board, Patiala and others.

...Petitioners.

Versus

Piara Singh.

...Respondent.

...

Coram: Hon'ble Mr. Justice S. N. Aggarwal.

...

Present: Mr.N.S. Jagdev Advocate for the petitioners.

Mr.Ashwani Talwar Advocate for the respondent.

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Judgment.

S. N. Aggarwal, J.

Petitioner Punjab State Electricity Board, Patiala is the defendant in the learned trial Court. An application was filed by the petitioner under Order 6 Rule 17 CPC for amendment in the written statement. Through the proposed amendment, the petitioner-Board intended to take a legal objection that the services of Piara Singh respondent were not regularized and,therefore, he was not entitled to proficiency step up increment.

This application was contested by respondent No.1.

This application was dismissed by the learned trial Court vide impugned order dated 20.5.2006.

Hence, the present revision petition.

The submission of learned counsel for the petitioner was that the petitioner-Board only wants to take a legal objection by introducing para No.8 in the written statement as reproduced in para No.1 of the impugned order passed by the learned trial Court. It was submitted that the said application was dismissed by the learned trial Court on the plea that if the amendment is allowed,it would amount to permitting the petitioner-Board to withdraw the admission made by it and it would also be contradictory to the previous stand taken by the petitioner-Board in the written statement. It was submitted by the learned counsel for the petitioner that it is no where pleaded by Piara Singh,respondent in the plaint if he was a regular employee nor any admission was made by the petitioner-Board in the written statement if the petitioner was a regular employee. Reference was also made to the statement of Piara Singh when he appeared in the witness-box as PW1 and where he admitted in the cross-examination that his services have not yet been regularized by the competent authority.

The submission of respondent No.1 was that application for amendment has been filed by the petitioner-Board at a very belated stage and,therefore, there was no illegality in the order passed by the learned trial Court on 20.5.2006. Hence, it was prayed that the petition be dismissed.

Submissions have been considered. The petitioner-Board only wants to plead that the services of Piara Singh respondent were not regularized and,therefore, he was not entitled to proficiency step up. It is only a legal plea. As discussed above, this amendment will not

contradict the stand taken earlier by the petitioner-Board in the written statement. Since the petitioner has filed this application for amendment after Piara Singh respondent has closed his evidence, the petitioner-Board is burdened with costs of Rs.5,000/-.

Further submits that the case is fixed in the trial Court on 20.1.2007 and the amended written statement is on the file of the trial Court. The costs be paid within four weeks from today. Since the suit is old, the trial Court is directed to expedite the disposal of the suit preferably within a period of six months from the next date fixed in the trial Court.

This Revision Petition is accordingly disposed of in the above terms.

January 19,2007. **(S. N. Aggarwal)**
Jaggi **Judge**